IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.288 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

M/s.M.P. Oil Extractions P.Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 15TH MARCH, 2005.

P.C. :-

1. The Income Tax Tribunal has referred under mentioned question for the opinion of this Court reading as under :-

> " Whether, on the facts and in the circumstances of the case, and in view of the provisions of section 43(1), the Tribunal was right in law in holding that while computing depreciation allowance the amount of subsidy received from the State Govt. cannot be reduced from the value of the assets ? "

2. The above question has already been answered by the Apex Court in the case of **C.I.T. V/s. P.J. Chemicals Ltd. [(1994) 210 I.T.R. 830 (S.C.)** in the affirmative i.e. in favour of the assessee and against the revenue. In this view of the matter, reference stands disposed of in terms of that Judgment with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)